

## **REMARKS**

Applicant has now had an opportunity to carefully consider the Office Action, and respectfully submits that the subject application is now in condition for allowance based upon the amendments presented herein and the following remarks.

### **Status of Claims**

The subject application was originally filed with 29 claims. In a Preliminary Amendment dated December 13, 2005, Applicant cancelled claims 1-29 and added new claims 30-58. In a prior Amendment, Applicant cancelled claims 33 and 47. In this Amendment, Applicant has amended claims 30, 42, and 56. Upon entry of this Amendment, claims 30-32, 34-46, and 48-58 will be pending in the subject application.

### **Summary of Office Action**

In the Office Action dated June 17, 2008, the Examiner:

- 1) rejected claims 30-32, 34, 35, 37-40, 42-44, 46, 48-50, 52, and 55-57 under 35 U.S.C. § 103(a) as being unpatentable over GB 2,265,959 issued to Pardy (“Pardy”) in view of U.S. Patent No. 7,222,644 issued to Pianetto et al. (“Pianetto”);
- 2) rejected claims 36 and 51 under 35 U.S.C. § 103(a) as being unpatentable over Pardy in view of Pianetto and further in view of U.S. Patent No. 5,746,255 issued to Walsh et al. (“Walsh”); and
- 3) rejected claims 34, 41, 45, 48, 53, and 58 under 35 U.S.C. § 103(a) as being unpatentable over Pardy in view of Pianetto and further in view of U.S. Patent No. 6,176,147 issued to Ozeki (“Ozeki”).

### **35 U.S.C. § 102(b) Rejection of Claims 30-32, 34, 35, 37-40, 42-44, 46, 48-50 and 55-57 Based on Pardy in View of Pianetto**

As discussed above, claims 30-32, 34, 35, 37-40, 42-44, 46, 48-50, 52, and 55-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pardy in view of Pianetto. One of the elements necessary to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 is that the prior art reference, or references when combined, must teach or suggest each and every claim limitation. For at least the following reasons, Applicant traverses this rejection.

Pardy fails to disclose or suggest a hose having “a wall construction including interwoven strands configured to be displaced relative to each other during deformation of the cross-sectional shape of the hose and to absorb deformation energy as frictional loss between the

strands” as required by amended independent claims 30, 42, and 56. Instead, the fuel pipe disclosed in Pardy includes a nylon tube **32a-c** surrounded by a rubber-like sheath **34** (pg. 3, lines 10-11). Indeed, Pardy is silent on any form of wall construction that includes interwoven strands and, more particularly perhaps, is silent on such interwoven strands being displaced relative to each other during deformation of the cross-sectional shape of the hose and absorbing deformation energy as frictional loss between the strands during such relative displacement.<sup>1</sup>

Pianetto fails to cure this defect for several reasons. First, while the reinforcing sheath **16** of Pianetto arguably contributes to the strength/resistance of the hose wall, the structure of the reinforcing sheath **16** does not permit the strands “to be displaced relative to each other during deformation of the cross-sectional shape of the hose and to absorb deformation energy as frictional loss between the strands fibers of the braided construction” as required by amended independent claims 30, 42, and 56. Specifically, as stated in Pianetto, the reinforcing sheath **16** is adhesively secured to the central core **15** and, thus, cannot move relative to the core **15**. (col 4, lines 24-27). This is contrary to the claimed invention, where movability of the interwoven strands is a requirement.

Second, because the hose **14** in Pianetto has a circular cross-section perpendicular to its axis, the strands of the reinforcing sheath **16** cannot move relative to each other because pressure pulses within the core **15** exert forces on the hose structure in a perfectly uniform manner, thereby causing the hose structure as a whole to expand and contract in a uniform manner by elastic stretching of both the material of the core **15** and the strands constituting the reinforcing sheath **16**. Consequently, there can be no movement of the strands of the reinforcing sheath **16** relative to each other.

Third, even assuming *arguendo* that Pianetto discloses the wall construction required by the claimed invention, a person having ordinary skill in the art would not look to Pianetto to improve the hose of Pardy, namely because the hose construction disclosed in Pianetto is precisely the hose construction upon which the inventor of the subject application intended to improve. That is, the hose in Pianetto has a circular cross-section (see Fig. 3) and thus can only deform by stretching radially and circumferentially in a manner similar to a spring.

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<sup>1</sup> On page 3 of the Office Action, the Examiner acknowledges that Pardy “does not directly disclose a wall construction of interwoven strands having a substantially fixed cross-section.”

Consequently, a person having ordinary skill in the art looking to improve the strength and resistance of the hose in Pardy would not look to Pianetto, since it has the same problems and failings associated with the prior art hoses having circular cross-sections and braided reinforcements.

For at least the foregoing reasons, the 35 U.S.C. § 103(a) rejection to claims 30, 42, and 56, and the claims that depend either directly or indirectly therefrom (i.e., claims 31-32, 34, 35, 37-40, 43-44, 46, 48-50, 52, 55, and 57, is unsupported and should be withdrawn.

**35 U.S.C. § 103(a) Rejection of Claims 36 and 51 Based on Pardy in View of Pianetto and Further in View of Walsh**

As discussed above, claims 36 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pardy in view of Pianetto in further view of Walsh. For at least the following reasons, Applicant traverses this rejection.

Since claim 36 depends directly from independent claim 30 and incorporates by reference all of the limitations from this claim, the combination of Pardy, Pianetto, and Walsh fails to disclose or suggest each and every limitation required by claim 36 for the same reasons as discussed above with respect to independent claims 30 in view of Pardy and Pianetto. Since claim 51 depends indirectly from independent claim 42 and incorporates by reference all of the limitations from this claim, the combination of Pardy, Pianetto, and Walsh fails to disclose or suggest each and every limitation required by claim 51 for the same reasons as discussed above with respect to independent claims 42 in view of Pardy and Pianetto.

For at least these reasons, the 35 U.S.C. § 103(a) rejection with respect to claims 36 and 51 are unsupported and should be withdrawn.

**35 U.S.C. § 103(a) Rejection of Claims 34, 41, 45, 48, 53 and 58 Based on Pardy in View of Pianetto and Further in View of Ozeki**

As discussed above, claims 34, 41, 45, 48, 53 and 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pardy in view of Pianetto and further in view of Ozeki. For at least the following reasons, Applicant traverses this rejection.

Since claims 34 and 41 depend directly from independent claim 30 and incorporate by reference all of the limitations from this claim, the combination of Pardy, Pianetto, and Walsh fails to disclose or suggest each and every limitation required by claims 36 for the same reasons

as discussed above with respect to independent claims 30 in view of Pardy and Pianetto. Since claims 45, 48, and 53 depend directly from independent claim 42 and incorporate by reference all of the limitations from this claim, the combination of Pardy, Pianetto, and Walsh fails to disclose or suggest each and every limitation required by claim 51 for the same reasons as discussed above with respect to independent claims 42 in view of Pardy and Pianetto. Since claim 58 depends directly from independent claim 56 and incorporates by reference all of the limitations from this claim, the combination of Pardy, Pianetto, and Walsh fails to disclose or suggest each and every limitation required by claim 51 for the same reasons as discussed above with respect to independent claims 42 in view of Pardy and Pianetto.

For at least these reasons, the 35 U.S.C. § 103(a) rejection with respect to claims 34, 41, 45, 48, 53, and 58 are unsupported and should be withdrawn.

### **Conclusion**

In view of the remarks above and the amendments presented herein, it is believed that claims 30-32, 34-46, and 48-58 are in condition for allowance and notice to such effect is respectfully requested. If the Examiner thinks a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned at the phone number provided below.

If any fees are due in connection with this Amendment, the Commissioner is authorized to charge Deposit Account No. 02-2051, specifically identifying Docket No. 29390-1.

Respectfully submitted,

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